UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	09/769,154	HENKEMEYER, DAVID C.
Office Action Summary	Examiner	Art Unit	
	Diem K Cao	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 January 2005</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>6-36</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>6-36</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

DETAILED ACTION

1.   Claims 6-36 are pending in the application. Applicant has canceled claims 1-5, amended

claims 6, 19, 26 and added claims 32-36.

2.   The indicated allowability of claims 9-18, 21-25 and 28-31 is withdrawn in view of the

newly discovered reference(s) to Maxwell et al. (U.S. 6,567,860) and Admitted Prior Art (APA).

Rejections based on the newly cited reference(s) follow.

Continued Examination Under 37 CFR 1.114

3.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 1/21/2005 has been entered.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claims 6-8, 19-25 and 32-36 are rejected under 35 U.S.C. 101 because the language of

the claims raise a question as to whether the claim is directed merely to an abstract idea that is

not tied to a technological art, environment or machine which would result in a practical

application producing a useful and tangible result to form the basis of statutory subject matter

under 35 U.S.C. 101.

Applicant could amended the preamble of the claims as "A computerized method of installing a device driver in a system comprising:"

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6.   Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 cites the limitation "further installing the operating system to enable the operating system interface" which is not support by the specification. The specification (on page 5, line 26 – page 6, line 2) discloses installing additional elements of the operating system if those are not existed. Examiner will interprets the claim limitation in light of the specification and claim 25 for examining purpose.

Correction is required.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maxwell et al.

(U.S. 6,567,860).

9.   **As to claim 6**, Maxwell teaches installing a first device driver (col. 6, lines 16-20, lines

53-57 and col. 7, lines 5-11), installing an operative device driver which enables a hardware

device and a system to operate together (col. 4, lines 25-29, col. 9, lines 65-66, col. 10, lines 39-

40).

10.   Although Maxwell does not explicitly teach deinstalling the first device driver upon

installation of the operative device driver, Maxwell teaches the add-device tool exit after

successfully install the device driver (col. 11, lines 22-23). It would have been obvious to one of

ordinary skill in the art at the time the invention was made that the first device driver is

deinstalled, i.e. the .INF file is not processed by the tool any more.

11.   **As to claim 7**, Maxwell teaches the first device driver does not enable the hardware

device and the system to operate together (INF File; col. 4, lines 30-35).

12.   Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maxwell et al.

(U.S. 6,567,860) in view of Admitted Prior Art (APA).

13.   **As to claim 8**, Maxwell does not teach prior to installing the first device driver, receiving

a request from an operating system of the system to identify the operative device driver from

among a plurality of possible device drivers. APA teaches prior to installing the device driver,

receiving a request from an operating system of the system to identify the operative device driver

from among a plurality of possible device drivers (page 2, line 21 – page 3, line 5). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to combine the

teaching of Maxwell and APA because it provides a method to support plug and play installation.

14.   Claims 9-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted

Prior Art (APA) in view of Maxwell et al. (U.S. 6,567,860).

15.   **As to claim 9**, APA teaches providing a plurality of drivers, any of which may become

installed as the device driver (The driver ... the DSL card may use; page 3, lines 3-4), the

operating system requesting that the user identify the device driver (The OS will ... with that

DSL card; page 2, line 29- page 3, line 2), receiving from the user an identification of the device

driver (the user has selected a driver; page 3, line 6), and installing one of the plurality of drivers

as the device driver in according with an operating system interface (CD-ROM which will have

separate drivers ... interface, the Wizard installs that driver; page 3, lines 3-6 and page 2, lines

18-25).

16.   However, APA does not teach providing a common driver which may not become

installed as the device driver, receiving from the user an identification of the common driver as

the device driver, installing the common driver, receiving from the user an identification of an

operating system interface though which the hardware device should communicate with the

operating system, deinstalling the common driver. APA teaches the drivers are stored in a CD-ROM in different directories for different type of OS interfaces, and the user selects the correct driver to install for the device (page 3, lines 3-6). It would have been obvious the user know which type of OS interface is in used with the correspondence hardware device. Maxwell teaches providing a common driver which may not become installed as the device driver (a vendor INF file; col. 5, lines 62-64), receiving from the user an identification of the common driver as the device driver (using this GUI ... in box 505; col. 6, lines 53-57), installing the common driver (When the file name ... is read; col. 7, lines 5-9). Although Maxwell does not explicitly teach deinstalling the first device driver upon installation of the operative device driver, Maxwell teaches the add-device tool exit after successfully install the device driver (col. 11, lines 22-23). It would have been obvious to one of ordinary skill in the art at the time the invention was made that the first device driver is deinstalled, i.e. the .INF file is not processed by the tool any more.

17.   It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of APA and Maxwell because Maxwell provides a method to enable the OS to recognize new hardware device and to permit the OS to automatically install the associated device driver and communicate with the device (abstract).

18.   **As to claim 10**, APA teaches the hardware device comprises a communication device (DSL card; page 2, line 20).

19.   **As to claim 11**, APA teaches the hardware device comprises a DSL card (DSL card; page 2, line 20).

20.   **As to claim 12**, APA teaches the operating interface is selected from a group comprising at least an NDISWAN interface and an NDIS interface (page 3, lines 4-5).

21.   **As to claim 13**, APA teaches the operating interface is selected from a group comprising at least a PPPoA interface and an RFC 1483 Bridged Ethernet interface (page 3, lines 4-5).

22.   **As to claim 14**, see rejection of claim 9 above. APA also teaches receiving from an operating system of the machine a request to identify a driver (The OS ... with that DSL card; page 2, line 27 – page 3, line 2), prompting a user to identify the driver (a Wizard which prompts the user to identify the location of the DSL driver to be used; page 3, lines 1-2).

23.   **As to claim 15**, Maxwell teaches preparing a list of data which the user is to collect (col. 6, lines 16-24), presenting the list to the user (Fig. 4), receiving the data from the user (the user enter ... OS path; col. 6, lines 16-24 and col. 7, lines 5-9), and configuring one or more features of the machine in accordance with the data (col. 3, lines 1-14).

24.   **As to claim 16**, Maxwell teaches determining whether the operating system is sufficiently complete to enable the operating system interface, and if not further installing

additional member of the operating system to enable the operating system interface (The system

gets ... adds the required sections to it; col. 6, lines 31-35).

25.   **As to claim 17**, Maxwell teaches the common driver is a do-nothing driver (INF file; col.

4, lines 30-35).

26.   **As to claim 18**, Maxwell teaches the common driver is stored in a removable storage

device (col. 4, lines 30-35). Although Maxwell does not teach the common driver is stored at the

root of the device, it would have been obvious to one of ordinary skill in the art that is just one

option as to where to install the file.

27.   **As to claim 19**, APA teaches receiving a request to identify a software component to be

installed (The OS will ... with that DSL card; page 2, line 29- page 3, line 2), the software

component one of a plurality of possible software components (The driver ... the DSL card may

use; page 3, lines 3-4), in response to the request, providing the identification of the software

component (the user has selected a driver; page 3, line 6), and install the software component

(the Wizard installs that driver; page 3, lines 3-6).

28.   However, APA does not teach providing an identification of a placeholder software

component which is not one of the plurality of possible software components, installing the

placeholder software component, and deinstalling the placeholder software component. Maxwell

teaches providing an identification of a placeholder software component which is not one of the

plurality of possible software components (a vendor INF file; col. 5, lines 62-64 and using this

GUI ... in box 505; col. 6, lines 53-57), installing the placeholder software component When the

file name ... is read; col. 7, lines 5-9). Although Maxwell does not explicitly teach deinstalling

the first device driver upon installation of the operative device driver, Maxwell teaches the add-

device tool exit after successfully install the device driver (col. 11, lines 22-23). It would have

been obvious to one of ordinary skill in the art at the time the invention was made that the first

device driver is deinstalled, i.e. the .INF file is not processed by the tool any more.

29.   It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the teaching of APA and Maxwell because Maxwell provides a method to

enable the OS to recognize new hardware device and to permit the OS to automatically install the

associated device driver and communicate with the device (abstract).

30.   **As to claim 20**, Maxwell teaches the deinstalling being done after and in response to

prompting the user to gather data (col. 6, lines 16-24), and receiving data from the user (the user

enter ... OS path; col. 6, lines 16-24).

31.   **As to claim 21**, APA does not explicitly teach receiving from the user an identification of

one of a plurality of types of interface through which the respective possible software

components are able to access the operating system. However, APA teaches the drivers are

stored in a CD-ROM in different directories for different type of OS interfaces, and the user

selects the correct driver to install for the device (page 3, lines 3-6). It would have been obvious

the user know which type of OS interface is in used with the correspondence hardware device.

32.   **As to claim 22**, Maxwell teaches decoding the one of plurality of possible software

components prior to its installation (col. 9, lines 25 – col. 10, line 40).

33.   **As to claim 23**, APA teaches the software components comprise drivers (The driver ...

the DSL card may use; page 3, lines 3-4).

34.   **As to claim 24**, APA teaches the drivers comprise DSL drivers (pages 3, lines 3-4).

35.   **As to claim 25**, see rejection of claim 16 above.

36.   **As to claim 26**, APA teaches an operating system including a plurality of interfaces to

equipment (The user equipment ... may be accessed; page 2, lines 14-16) of corresponding

plurality of types (a first type, a second type; page 2, lines 7-8), one of which is a first

predetermined type (first type), and including a driver ID demander (The OS will launch ... DSL

card; page 2, line 29 - page 3, line 2).

37.   However, APA does not teach a wizard including a common driver which, when

identified to the driver ID demander satisfies the driver ID demander's requirement to identify

one of the plurality interface. Maxwell teaches a wizard (the add-device tool; col. 6, lines 5-6), a

common driver (a vender INF file; col. 5, lines 62-64) which when identified to the driver ID

demander (the GUI; col. 6, lines7-9 and fig. 4) satisfies the driver ID demander's requirement to

identify one of the plurality interface (Using the GUI ... the source path; col. 6, lines 16-35).

38.   It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the teaching of APA and Maxwell because Maxwell provides a method to

enable the OS to recognize new hardware device and to permit the OS to automatically install the

associated device driver and communicate with the device (abstract).

39.   **As to claim 27**, see rejection of claim 17 above.

40.   **As to claim 28**, APA teaches a driver of the first predetermined type (the driver will be

on the CD-ROM; page 3, line 3). Although Maxwell does not explicitly teach the wizard being

adapted to deinstall the common driver upon installation of the driver of the first predetermined

type, Maxwell teaches the add-device tool exit after successfully install the device driver (col.

11, lines 22-23). It would have been obvious to one of ordinary skill in the art at the time the

invention was made that the first device driver is deinstalled, i.e. the .INF file is not processed by

the tool any more.

41.   **As to claim 29**, APA teaches an apparatus for installation into a device to connect the

device to equipment of a first predetermined type (the operating system ... first or second

interface; page 2, lines 18-24), the device including software which includes a plurality of

interfaces to equipments of a plurality of types (The user equipment ... may be accessed; page 2,

lines 14-16 and a first type, a second type; page 2, lines 7-8) including the first predetermined

type (first type) and which requests an identification of a driver in response to installation of a

device that utilizes one of the plurality of interfaces (The user install ... that DSL card; page 2,

line 27 - page 3, line 2), the apparatus comprising a hardware device for providing

communication to the equipment (user equipment; page 2, lines 13-14), a driver of the first

predetermined type (the driver will be on the CD-ROM; page 3, line 8), a wizard for installing a

driver in response to the software requesting the identification of the driver (The OS will launch

a wizard ... correct driver; page 2, line 29 - page 3, line 2).

42.   However, APA does not teach a common driver, a wizard for installing the common

driver in response to the software requesting the identification of the driver, and for deinstalling

the common driver and installing the driver of the first predetermined type in response to

receiving information identifying the equipment as being of the first predetermined type.

Maxwell teaches a wizard (the add-device tool; col. 6, lines 5-6), a common driver (a vender INF

file; col. 5, lines 62-64), installing the driver (the add-device tool ... to OS installation files

location; col. 10, lines 39-40). Although Maxwell does not explicitly teach the wizard being

adapted to deinstall the common driver upon installation of the driver of the first predetermined

type, Maxwell teaches the add-device tool exit after successfully install the device driver (col.

11, lines 22-23). It would have been obvious to one of ordinary skill in the art at the time the

invention was made that the first device driver is deinstalled, i.e. the .INF file is not processed by

the tool any more.

43.   It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the teaching of APA and Maxwell because Maxwell provides a method to

enable the OS to recognize new hardware device and to permit the OS to automatically install the

associated device driver and communicate with the device (abstract).

44.   **As to claim 30**, see rejection of claim 11 above.

45.   **As to claim 31**, see rejection of claim 17 above.

46.   **As to claim 32**, APA teaches installing a first element on a processor-based system (The

user installs the hardware, such as the DSL card; page 2, line 27), demand for the identification

of an interface for the first element (The OS will launch ... that DSL card; page 2, line 29 - page

3, line 2), and installing the interface (Once the user has selected a driver, the Wizard installs that

driver; page 3, line 6).

47.   However, APA does not teach temporarily installing a common element in response to a

demand for the identification of an interface for the first element, and deinstalling the common

element upon the installation of the interface. Maxwell teaches a wizard (the add-device tool;

col. 6, lines 5-6), a common driver (a vender INF file; col. 5, lines 62-64), installing the driver

(the add-device tool ... to OS installation files location; col. 10, lines 39-40). Although Maxwell

does not explicitly teach the wizard being adapted to deinstall the common driver upon

installation of the driver of the first predetermined type, Maxwell teaches the add-device tool exit

after successfully install the device driver (col. 11, lines 22-23). It would have been obvious to

one of ordinary skill in the art at the time the invention was made that the first device driver is

deinstalled, i.e. the .INF file is not processed by the tool any more.

48.   It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the teaching of APA and Maxwell because Maxwell provides a method to

enable the OS to recognize new hardware device and to permit the OS to automatically install the

associated device driver and communicate with the device (abstract).

49.   **As to claim 33**, APA teaches installing a first element includes installing a hardware

device (The user installs the hardware, such as the DSL card; page 2, line 27). Maxwell teaches

temporality installing a common element includes temporarily installing a common driver (a

vendor INF file; col. 5, lines 62-64 and using this GUI ... in box 505; col. 6, lines 53-57).

50.   **As to claim 34**, although APA does not explicitly teach identifying an operating system

interface through which the device driver is able to access the operating system, APA teaches

each driver access the OS through the respective interface (page 2, lines 21-24), and there are

multiple drivers on the CD-ROM, each one is stored under a respective interface (page 3, lines 3-

5), and the user selects the correct driver to install upon request (page 3, lines 1-6). It would have

been obvious the user would identify the OS interface in order to select the driver for the

installed hardware.

51.   **As to claim 35**, Maxwell teaches generating a page to indicate information that is need

for installation of the hardware device (Fig. 4 and col. 6, lines 5-20).

52.   **As to claim 36**, APA teaches installing a first element includes installing a software

application (the Wizard installs the driver; page 3, line 6).

Response to Arguments

53.   Applicant's arguments with respect to claims 6 - 8, 19-20, 26-27 has been considered but

are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Diem K Cao whose telephone number is (571) 272-3760. The

examiner can normally be reached on Monday - Friday, 8:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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Any response to this action should be mailed to:
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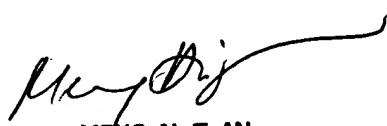
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